

HOUSE BILL No. 1135

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-33-2-11.6; IC 5-2-8-8; IC 5-10; IC 5-14-3-2; IC 7.1-1-3; IC 7.1-2; IC 7.1-4; IC 7.1-5; IC 9-13-2; IC 10-11; IC 10-12; IC 35-31.5-2-185; IC 35-42-2-1.

Synopsis: Excise police transfer to state police department. Establishes the excise enforcement section of the state police department. Transfers certain powers, duties, and functions concerning the enforcement of the alcoholic beverage statutes and the alcohol and tobacco commission rules to the excise enforcement section of the state police department. Transfers all property and records of the alcohol and tobacco commission concerning the enforcement officer activity of the commission to the state police department. Provides that on July 1, 2016, an individual who is an employee of the alcohol and tobacco commission and is employed in the commission's enforcement officer activity is an employee of the state police department excise enforcement section. Makes conforming amendments.

Effective: July 1, 2016.

Soliday

January 7, 2016, read first time and referred to Committee on Public Policy.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1135

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-33-2-11.6, AS AMENDED BY P.L.3-2008,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 11.6. "Law enforcement agency" means any of the
4 following:

5 (1) The gaming agents of the Indiana gaming commission.

6 (2) The state police department.

7 (3) The conservation officers of the department of natural
8 resources.

9 (4) The ~~state excise police of the alcohol and tobacco~~
10 ~~commission.~~ **excise enforcement section of the state police**
11 **department.**

12 (5) The gaming control officers of the Indiana gaming
13 commission.

14 (6) The enforcement department of the securities division of the
15 office of the secretary of state.

16 SECTION 2. IC 5-2-8-8 IS AMENDED TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2016]: Sec. 8. (a) There is established the



1 ~~alcoholic beverage excise~~ enforcement officers' training fund. The
 2 ~~alcohol and tobacco commission state police department~~ shall
 3 administer the fund. The fund consists of amounts collected under
 4 IC 33-37-4-1(b)(4), IC 33-37-4-2(b)(3), and IC 33-37-4-3(b)(4) on
 5 behalf of the ~~alcohol and tobacco commission~~. **state police**
 6 **department**.

7 (b) If the ~~alcohol and tobacco commission state police department~~
 8 files a claim under IC 33-37-8-4 or IC 33-37-8-6 against a city or town
 9 user fee fund or a county user fee fund, the fiscal officer of the city or
 10 town or the county auditor shall deposit fees collected under the cause
 11 numbers submitted by the ~~alcohol and tobacco commission state police~~
 12 **department** into the ~~alcoholic beverage excise~~ enforcement officers'
 13 training fund established under this section.

14 (c) Claims against the ~~alcoholic beverage excise~~ enforcement
 15 officers' training fund must be submitted in accordance with
 16 IC 5-11-10.

17 (d) Money in excess of one hundred dollars (\$100) that is
 18 unencumbered and remains in the ~~alcoholic beverage excise~~
 19 enforcement officers' training fund for at least one (1) entire calendar
 20 year from the date of its deposit shall, at the end of the state's fiscal
 21 year, be deposited in the law enforcement training fund established
 22 under IC 5-2-1-13(b).

23 SECTION 3. IC 5-10-5.5-1, AS AMENDED BY P.L.35-2012,
 24 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2016]: Sec. 1. As used in this chapter and unless the context
 26 clearly denotes otherwise:

27 (1) "Board" refers to the board of trustees of the Indiana public
 28 retirement system established by IC 5-10.5-3-1.

29 (2) "Department" means the Indiana department of natural
 30 resources.

31 ~~(3) "Commission" means the alcohol and tobacco commission.~~

32 **(3) "Enforcement section" means the excise enforcement**
 33 **section of the state police department.**

34 (4) "Officer" means any:

35 **(A)** Indiana state excise police officer;

36 **(B)** ~~any~~ Indiana state conservation enforcement officer;

37 **(C)** ~~any~~ gaming agent; or

38 **(D)** ~~any~~ gaming control officer.

39 (5) "Participant" means any officer who has elected to participate
 40 in the retirement plan created by this chapter.

41 (6) "Salary" means the total compensation, exclusive of expense
 42 allowances, paid to any officer by the department, **the**



1 **enforcement section**, or the **Indiana gaming** commission,
 2 determined without regard to any salary reduction agreement
 3 established under Section 125 of the Internal Revenue Code.

4 (7) "Average annual salary" means the average annual salary of
 5 an officer during the five (5) years of highest annual salary in the
 6 ten (10) years immediately preceding an officer's retirement date,
 7 determined without regard to any salary reduction agreement
 8 established under Section 125 of the Internal Revenue Code.

9 (8) "Public employees' retirement act" means IC 5-10.3.

10 (9) "Public employees' retirement fund" means the public
 11 employees' retirement fund created by IC 5-10.3-2.

12 (10) "Interest" means the rate of interest specified by rule by the
 13 board of trustees of the Indiana public retirement system
 14 established by IC 5-10.5-3-1.

15 (11) "Americans with Disabilities Act" refers to the Americans
 16 with Disabilities Act (42 U.S.C. 12101 et seq.) and any
 17 amendments and regulations related to the Act.

18 (12) Other words and phrases when used in this chapter shall, for
 19 the purposes of this chapter, have the meanings respectively
 20 ascribed to them as set forth in IC 5-10.3-1.

21 SECTION 4. IC 5-10-5.5-2, AS AMENDED BY P.L.227-2007,
 22 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2016]: Sec. 2. There is hereby created a state excise police,
 24 gaming agent, gaming control officer, and conservation enforcement
 25 officers' retirement plan to establish a means of providing special
 26 retirement, disability and survivor benefits to employees of the
 27 department, the Indiana gaming commission, and **officers of the**
 28 **commission enforcement section** who are engaged exclusively in the
 29 performance of law enforcement duties.

30 SECTION 5. IC 5-10-5.5-12.7, AS AMENDED BY P.L.35-2012,
 31 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2016]: Sec. 12.7. (a) Upon a petition from a participant, the
 33 department, ~~or the Indiana gaming commission, or the enforcement~~
 34 **section**, the board of trustees of the Indiana public retirement system,
 35 or its designee, shall make the determinations required by section 13
 36 of this chapter and shall also determine:

37 (1) the degree of impairment of any officer determined to have a
 38 disability; and

39 (2) whether the disability arose in the line of duty (as defined in
 40 section 13.5 of this chapter).

41 (b) The impairment standards contained in the United States
 42 Department of Veterans Affairs Schedule for Rating Disabilities in



effect at the time the application for disability benefits is filed with the board of trustees shall be used to determine the degree of impairment.

(c) To the extent required by the Americans with Disabilities Act, the transcripts, reports, records, and other material generated as a result of a hearing, a review, or an appeal conducted under this chapter to determine the existence of a disability, the cause of a disability, or the degree of impairment shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

SECTION 6. IC 5-10-8-6, AS AMENDED BY P.L.138-2012, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) The state police department **and** conservation officers of the department of natural resources **and the state excise police** may establish common and unified plans of self-insurance for their employees, including retired employees, as separate entities of state government. These plans may be administered by a private agency, business firm, limited liability company, or corporation. Any modification to:

- (1) eligibility requirements;
- (2) required premiums; or
- (3) any other plan provisions;

that increases the amount of the state's contribution to the plan or that increases the post-employment liability under the plan may not be made unless the modification is approved by the budget agency with an annual review of the modifications by the budget committee.

(b) Except as provided in this section and IC 5-10-14, the state agencies listed in subsection (a) may not pay as the employer part of benefits for any employee or retiree an amount greater than that paid for other state employees for group insurance.

(c) This subsection applies to a health benefit plan for an individual described in subsection (a). After June 30, 2011, at least one (1) time in each state fiscal year, the budget agency shall determine the average amount of contributions made under IC 5-10-8.5-15 and IC 5-10-8.5-16 to participants in a health reimbursement arrangement or other separate fund under IC 5-10-8.5 in the immediately preceding state fiscal year. In the state fiscal year beginning July 1, 2011, the amount determined under this section must exclude contributions made to persons described in IC 5-10-8.5-15(c) and IC 5-10-8.5-16(f). An amount equal to the average amount determined under this subsection multiplied by the number of participants (other than retired participants) in the plans described in subsection (a) shall be transferred to the plans described in subsection (a). The amount transferred under this subsection shall be



1 proportionally allocated to each plan relative to the number of members
 2 in each plan. The amount allocated to a plan under this subsection shall
 3 be allocated among the participants in the plan in the same manner as
 4 other employer contributions. Funds shall be used only to reduce
 5 unfunded other post-employment benefit (OPEB) liability and not to
 6 increase benefits or reduce premiums.

7 (d) Trust funds may be established to carry out the purposes of this
 8 section. A trust fund established under this subsection is considered a
 9 trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred,
 10 assigned, or otherwise removed from a trust fund established under this
 11 subsection by the state board of finance, the budget agency, or any
 12 other state agency. Money in a trust fund established under this
 13 subsection does not revert to the state general fund at the end of any
 14 state fiscal year. A trust fund established under this subsection consists
 15 of appropriations, revenues, or transfers to the trust fund under
 16 IC 4-12-1. Contributions to a trust fund established under this
 17 subsection are irrevocable. A trust fund established under this
 18 subsection must be limited to providing prefunding of annual required
 19 contributions and to cover OPEB liability for covered individuals.
 20 Funds may be used only for these purposes and not to increase benefits
 21 or reduce premiums. A trust fund established under this subsection
 22 shall be established to comply with and be administered in a manner
 23 that satisfies the Internal Revenue Code requirements concerning a
 24 trust fund for prefunding annual required contributions and for
 25 covering OPEB liability for covered individuals. All assets in a trust
 26 fund established under this subsection:

- 27 (1) are dedicated exclusively to providing benefits to covered
- 28 individuals and their beneficiaries according to the terms of the
- 29 health plan; and
- 30 (2) are exempt from levy, sale, garnishment, attachment, or other
- 31 legal process.

32 A trust fund established under this subsection shall be administered by
 33 the agency employing the covered individuals. The expenses of
 34 administering a trust fund established under this subsection shall be
 35 paid from money in the trust fund. The treasurer of state shall invest the
 36 money in a trust fund established under this subsection not currently
 37 needed to meet the obligations of the trust fund in the same manner as
 38 other public money may be invested.

39 SECTION 7. IC 5-10-10-4, AS AMENDED BY P.L.62-2015,
 40 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2016]: Sec. 4. As used in this chapter, "public safety officer"
 42 means any of the following:



- (1) A state police officer.
 - (2) A county sheriff.
 - (3) A county police officer.
 - (4) A correctional officer.
 - (5) An excise police officer **of the excise enforcement section of the state police department.**
 - (6) A county police reserve officer.
 - (7) A city police reserve officer.
 - (8) A conservation enforcement officer.
 - (9) A town marshal.
 - (10) A deputy town marshal.
 - (11) A probation officer.
 - (12) A state educational institution police officer appointed under IC 21-39-4.
 - (13) A police officer whose employer purchases coverage under section 4.5 of this chapter.
 - (14) An emergency medical services provider (as defined in IC 16-41-10-1) who is:
 - (A) employed by a political subdivision (as defined in IC 36-1-2-13); and
 - (B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.
 - (15) A firefighter who is employed by the fire department of a state university.
 - (16) A firefighter whose employer purchases coverage under section 4.5 of this chapter.
 - (17) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.
 - (18) A gaming agent of the Indiana gaming commission.
 - (19) A person who is:
 - (A) employed by a political subdivision (as defined in IC 36-1-2-13); and
 - (B) appointed as a special deputy under IC 36-8-10-10.6.
 - (20) A school corporation police officer appointed under IC 20-26-16.
 - (21) A gaming control officer of the Indiana gaming commission.
 - (22) An eligible chaplain who meets the requirements of section 4.7 of this chapter.
 - (23) A community corrections officer.
 - (24) An eligible emergency medical services provider who meets the requirements of section 4.8 of this chapter.
- SECTION 8. IC 5-14-3-2, AS AMENDED BY P.L.248-2013,



SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

(c) "Criminal intelligence information" means data that has been evaluated to determine that the data is relevant to:

(1) the identification of; and

(2) the criminal activity engaged in by;

an individual who or organization that is reasonably suspected of involvement in criminal activity.

(d) "Direct cost" means one hundred five percent (105%) of the sum of the cost of:

(1) the initial development of a program, if any;

(2) the labor required to retrieve electronically stored data; and

(3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

(e) "Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

(f) "Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

(g) "Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

(h) "Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;



to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

(i) "Investigatory record" means information compiled in the course of the investigation of a crime.

(j) "Offender" means a person confined in a penal institution as the result of the conviction for a crime.

(k) "Patient" has the meaning set out in IC 16-18-2-272(d).

(l) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

(m) "Provider" has the meaning set out in IC 16-18-2-295(b) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

(n) "Public agency", except as provided in section 2.1 of this chapter, means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts that is required by statute, rule, or regulation.

(4) Any building corporation of a political subdivision that issues



bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, ~~members of the excise police division of the alcohol and tobacco commission~~, conservation officers of the department of natural resources, gaming agents of the Indiana gaming commission, gaming control officers of the Indiana gaming commission, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission established by IC 4-30-3-1, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(o) "Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

(p) "Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

(q) "Trade secret" has the meaning set forth in IC 24-2-3-2.

(r) "Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation. The term includes the attorney's:

(1) notes and statements taken during interviews of prospective witnesses; and

(2) legal research or records, correspondence, reports, or



1 memoranda to the extent that each contains the attorney's
2 opinions, theories, or conclusions.

3 This definition does not restrict the application of any exception under
4 section 4 of this chapter.

5 SECTION 9. IC 7.1-1-3-10.1 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2016]: **Sec. 10.1. "Commander" refers to the**
8 **commander of the excise enforcement section of the state police**
9 **department.**

10 SECTION 10. IC 7.1-1-3-16 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 16. ~~Enforcement~~
12 ~~Officer.~~ The term "Enforcement officer" means a person employed by
13 the ~~commission~~ **state police department excise enforcement section**
14 to perform duties ~~pursuant to IC 1971, 7.1-2;~~ **under IC 10-11-3.5**

15 SECTION 11. IC 7.1-1-3-16.1 IS ADDED TO THE INDIANA
16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2016]: **Sec. 16.1. "Enforcement section"**
18 **refers to the excise enforcement section of the state police**
19 **department established under IC 10-11-3.5.**

20 SECTION 12. IC 7.1-1-3-45.2 IS ADDED TO THE INDIANA
21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2016]: **Sec. 45.2. "State police" refers to the**
23 **state police department established by IC 10-11-2-4.**

24 SECTION 13. IC 7.1-1-3-45.5 IS ADDED TO THE INDIANA
25 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2016]: **Sec. 45.5. "Superintendent" refers to**
27 **the superintendent of the state police department appointed under**
28 **IC 10-11-2-6.**

29 SECTION 14. IC 7.1-2-1-9 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. ~~Surety Bonds.~~ The
31 required surety bond executed and filed on behalf of a commissioner
32 ~~an enforcement officer;~~ or the prosecutor shall be made payable to the
33 state of Indiana and conditioned upon the faithful discharge of the
34 bonded party's respective duties.

35 SECTION 15. IC 7.1-2-2-8 IS REPEALED [EFFECTIVE JULY 1,
36 2016]. Sec. 8: (a) ~~The commission may employ qualified individuals~~
37 ~~to serve as enforcement officers of the commission.~~

38 (b) ~~The superintendent of the enforcement officers must have had~~
39 ~~at least ten (10) years experience as an active law enforcement officer;~~
40 ~~at least five (5) years of which must have been in a management~~
41 ~~capacity.~~

42 (c) ~~The commission shall issue to an enforcement officer a~~



1 certificate of employment under the seal of the commission. The courts
2 of this state shall take judicial notice of a certificate of employment.

3 SECTION 16. IC 7.1-2-2-9 IS REPEALED [EFFECTIVE JULY 1,
4 2016]. Sec. 9: (a) An enforcement officer is vested with full police
5 powers and duties to enforce:

6 (1) the provisions of this title;

7 (2) any other law of this state relating to alcohol or alcoholic
8 beverages; and

9 (3) tobacco laws, including tobacco vending machines.

10 (b) An enforcement officer may issue a summons for infraction or
11 misdemeanor violations if the defendant promises to appear by signing
12 the summons. A defendant who fails to appear is subject to the
13 penalties provided by IC 35-44.1-2-10. Upon failure to appear, the
14 court shall issue a warrant for the arrest of the defendant.

15 (c) In addition to the authority of an enforcement officer under
16 subsection (a), an enforcement officer may act as an officer for the
17 arrest of offenders against the laws of this state if the enforcement
18 officer reasonably believes that a crime is or is about to be committed
19 or attempted in the enforcement officer's presence.

20 SECTION 17. IC 7.1-2-2-9.5 IS REPEALED [EFFECTIVE JULY
21 1, 2016]. Sec. 9.5: The state excise police may investigate fraud within
22 the electronic benefits transfer program, as set forth in IC 12-13-14-14.

23 SECTION 18. IC 7.1-2-2-10 IS REPEALED [EFFECTIVE JULY
24 1, 2016]. Sec. 10: Enforcement Officers: Bond and Oath of Office:
25 Each enforcement officer shall execute a surety bond in the amount of
26 one thousand dollars (\$1,000); with surety approved by the
27 commission; and an oath of office; both of which shall be filed with the
28 executive secretary of the commission.

29 SECTION 19. IC 7.1-2-2-11 IS REPEALED [EFFECTIVE JULY
30 1, 2016]. Sec. 11: (a) The injury to; the injury to the health of; or the
31 death of; an enforcement officer shall be compensable under the
32 appropriate provisions of IC 22-3-2 through IC 22-3-7 if the injury;
33 injury to the health; or death; arises out of; and in the course of; the
34 performance of the officer's duties as an enforcement officer.

35 (b) For the purposes of subsection (a), and of IC 22-3-2 through
36 IC 22-3-7, an enforcement officer shall be conclusively presumed to
37 have accepted the compensation provisions provided in them.

38 SECTION 20. IC 7.1-2-2-11.5 IS REPEALED [EFFECTIVE JULY
39 1, 2016]. Sec. 11.5: An eligible enforcement officer who retires with at
40 least twenty (20) years of service as an enforcement officer may retain
41 the officer's service weapon. The officer is entitled to receive, in
42 recognition of the officer's service to the commission and to the public;



1 a badge that indicates that the officer is retired. The commission shall
 2 issue the officer who is retiring an identification card stating the
 3 officer's name and rank, signifying that the officer is retired, and noting
 4 the officer's authority to retain the service weapon.

5 SECTION 21. IC 7.1-2-2-12 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. ~~(a)~~ The commission
 7 shall have the power to employ and remove at will all necessary clerks,
 8 stenographers, bookkeepers, auditors, accountants, assistants of any
 9 nature, and other employees, and to fix their duties, authorities, and,
 10 with proper approval, their compensation.

11 ~~(b) The superintendent of the enforcement officers may discharge~~
 12 ~~a non-probationary enforcement officer for just cause. The commission~~
 13 ~~shall adopt rules to establish a procedure for the adjudication of the~~
 14 ~~propriety of the discharge of a non-probationary enforcement officer.~~

15 SECTION 22. IC 7.1-2-3-2 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. ~~Power to Organize.~~
 17 The commission shall have the power to:

18 (1) organize its work; ~~and~~

19 (2) carry on the functions of the commission; ~~and to~~

20 (3) **except for enforcement matters that are the responsibility**
 21 **of the enforcement section under IC 10-11-3.5, enforce and**
 22 **administer:**

23 (A) the provisions of this title; and

24 (B) the rules ~~and regulations~~ of the commission.

25 SECTION 23. IC 7.1-2-3-2.1 IS ADDED TO THE INDIANA
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE JULY 1, 2016]: Sec. 2.1. (a) **The commission is**
 28 **responsible for developing alcoholic beverage policies and adopting**
 29 **rules under this title. The state police may not develop alcoholic**
 30 **beverage policies or adopt related rules except for policies and**
 31 **rules concerning enforcement matters that are the responsibility**
 32 **of the state police under IC 10-11-3.5.**

33 (b) **The chairman shall consult with the superintendent**
 34 **concerning the priorities of enforcement matters that are the**
 35 **responsibility of the enforcement section under IC 10-11-3.5.**

36 SECTION 24. IC 7.1-2-3-7 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 7. ~~Rules and~~
 38 ~~Regulations.~~ The commission shall have the power to ~~promulgate~~
 39 **adopt rules and regulations governing the following:**

40 ~~(a)~~ (1) The conduct of the meetings and business of the
 41 commission.

42 ~~(b)~~ (2) The conduct of hearings before any of the commission's



representatives.

~~(e)~~ **(3)** The conduct of the business of a permittee authorized or governed by the provisions of this title.

~~(d)~~ **(4)** **Except for enforcement matters that are the responsibility of the enforcement section under IC 10-11-3.5,** the enforcement of the provisions of this title and of the rules ~~and regulations~~ of the commission.

~~(e)~~ **(5)** The standards of purity and methods of manufacturing used in the production of alcohol and alcoholic beverages.

~~(f)~~ **(6)** The prevention of misbranding or adulteration of alcohol or alcoholic beverages. ~~and~~

~~(g)~~ **(7)** The prevention of fraud, evasion, trickery, or deceit in the manufacture, labeling, importation, advertisement, transportation, or sale of alcohol or alcoholic beverages, or the evasion of other laws of Indiana relating to alcohol or alcoholic beverages.

SECTION 25. IC 7.1-2-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 15. ~~Destruction of Personal Property.~~ The commission **and the enforcement section** shall have the power to require the destruction or removal of bottles, whether empty or not, cases, containers, apparatus, or devices, used or likely to be used, in evading, violating, or preventing the enforcement of the provisions of this title or of the rules ~~and regulations of the commission:~~ **adopted under this title.**

SECTION 26. IC 7.1-2-3-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 30. ~~Limitation of Liability.~~ **(a) Except as provided in subsection (b),** the members of the commission, ~~their the commander,~~ officers and employees **of the commission, and officers and employees of the enforcement section** shall be exempt from civil liability for an act or omission done under the authority, or the color of authority, conferred by this title or by a rule ~~regulation,~~ or order of the commission **or the enforcement section.**

~~(b) However, they~~ **The persons listed in subsection (a)** shall be liable to the state of Indiana for their acts and omissions.

SECTION 27. IC 7.1-2-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. ~~Service of Warrant.~~ **(a)** The warrant shall be directed to the officer, agent, or employee of the commission **or enforcement section** who filed the affidavit for the warrant and otherwise it shall be directed to any officer who has the power to serve criminal process.

(b) The warrant shall be served by the person to whom it was issued in the daytime or nighttime and the return made within twenty (20)



1 days from the date of issue.

2 SECTION 28. IC 7.1-2-8-2 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. ~~Jurisdiction~~
4 ~~Restricted~~. Except as otherwise provided in this title, a person shall not
5 bring an action against the state of Indiana, the commission, the
6 chairman, ~~or the chairman pro tempore~~, **the state police, the**
7 **commander, or the superintendent** based upon a claim arising from
8 the collection of money received by the state in connection with the
9 administration or enforcement of a provision of this title. The consent
10 of the state of Indiana is hereby expressly withdrawn and denied in
11 such an action and no court shall have jurisdiction in such an action.

12 SECTION 29. IC 7.1-4-6-1, AS AMENDED BY P.L.165-2006,
13 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2016]: Sec. 1. The chairman, ~~and the department~~, **and the**
15 **enforcement section** shall have the power to examine the books,
16 papers, records, and premises of a manufacturer, wholesaler, retailer,
17 dealer, or direct wine seller's permit holder under this title for the
18 purpose of determining whether the excise taxes imposed by this title
19 have been paid fully and whether the provisions of ~~the this~~ title are
20 being complied with.

21 SECTION 30. IC 7.1-4-10-2 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. ~~Use of Funds~~. (a)
23 The ~~monies~~ **money** in the enforcement and administration fund shall
24 be used and disbursed solely to:

25 **(1) the commission; and**

26 **(2) the enforcement section;**

27 for the enforcement and administration of this title, and for no other
28 purpose.

29 **(b)** Any unexpended balance remaining in the fund at the end of a
30 fiscal year shall not lapse but shall remain exclusively appropriated and
31 available only for the purpose of the enforcement and administration
32 of this title.

33 **(c) The budget agency shall disburse the money in the fund**
34 **under this section.**

35 SECTION 31. IC 7.1-4-11-1, AS AMENDED BY P.L.35-2012,
36 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2016]: Sec. 1. (a) **This section applies to an officer of the**
38 **excise enforcement section.**

39 **(b)** The sums realized from the collection of the biennial license
40 fees imposed by IC 7.1-4-4.1-3 shall be paid first, and are hereby
41 appropriated, to the state excise police, gaming agent, gaming control
42 officer, and conservation enforcement officers' retirement plan



1 established by IC 5-10-5.5-2 (referred to as "retirement plan" in this
 2 section). The board of trustees of the Indiana public retirement system
 3 shall determine the amount to be appropriated. The amount to be
 4 appropriated shall be sufficient, when added to the funds already held
 5 by the retirement plan, for the payment of benefits to enforcement
 6 officers to pay the aggregate liability of the retirement plan for the
 7 payment of benefits and administration costs to the end of the fiscal
 8 year. The appropriation of funds shall be credited to the retirement plan
 9 in equal installments at the end of each month during each fiscal year.

10 SECTION 32. IC 7.1-5-5-2, AS AMENDED BY P.L.159-2014,
 11 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2016]: Sec. 2. (a) It is unlawful for a commissioner, an officer
 13 or **an** employee of the commission, ~~or~~ a member of a local board, **or an**
 14 **officer or an employee of the enforcement section** to receive a
 15 gratuity, commission, or profit of any kind from a person applying for
 16 or receiving a permit under this title.

17 (b) A person who knowingly or intentionally violates subsection (a)
 18 commits a Level 6 felony.

19 (c) In addition to any other penalty provided for a violation of
 20 subsection (a), a person who violates subsection (a) shall be dismissed
 21 as provided in this title **or under IC 10-11-3.5.**

22 SECTION 33. IC 7.1-5-9-1, AS AMENDED BY P.L.159-2014,
 23 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2016]: Sec. 1. (a) It is unlawful for a commissioner, an officer
 25 or **an** employee of the commission, ~~or~~ a member of a local board, **or an**
 26 **officer or an employee of the enforcement section** to have an
 27 interest, either proprietary or by means of a loan, mortgage, or lien, or
 28 in any other manner, or to own stock in a corporation which has an
 29 interest, in the premises where alcoholic beverages are manufactured
 30 or sold, or in a business wholly or partially devoted to the manufacture,
 31 sale, transportation, or storage of alcoholic beverages. The prohibition
 32 contained in this section shall not apply to an expert or professional
 33 employee employed by the commission **or the enforcement section**
 34 only for a special undertaking. A person who violates a provision of
 35 this section also shall be dismissed as provided in this title **or under**
 36 **IC 10-11-3.5.**

37 (b) A person who knowingly or intentionally violates this section
 38 commits a Class B misdemeanor.

39 SECTION 34. IC 9-13-2-92, AS AMENDED BY P.L.262-2013,
 40 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2016]: Sec. 92. (a) "Law enforcement officer", except as
 42 provided in subsection (b), includes the following:



- (1) A state police officer.
- (2) A city, town, or county police officer.
- (3) A sheriff.
- (4) A county coroner in accordance with IC 36-2-14-4.
- (5) A conservation officer.
- (6) An individual assigned duties and limitations under IC 10-11-2-26.
- (7) A member of a consolidated law enforcement department established under IC 36-3-1-5.1.
- (8) An excise police officer of the ~~alcohol and tobacco commission~~ **excise enforcement section of the state police department.**
- (9) A gaming control officer employed by the gaming control division under IC 4-33-20.

The term refers to a law enforcement officer having jurisdiction in Indiana, unless the context clearly refers to a law enforcement officer from another state or a territory or federal district of the United States.

(b) "Law enforcement officer", for purposes of IC 9-30-6 and IC 9-30-7, has the meaning set forth in IC 35-31.5-2-185.

SECTION 35. IC 9-13-2-127, AS AMENDED BY P.L.262-2013, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 127. (a) "Police officer" means, except as provided in subsections (b) and (c), the following:

- (1) A regular member of the state police department.
- (2) A regular member of a city or town police department.
- (3) A town marshal or town marshal deputy.
- (4) A regular member of a county sheriff's department.
- (5) A conservation officer of the department of natural resources.
- (6) An individual assigned as a motor carrier inspector under IC 10-11-2-26(a).
- (7) An excise police officer of the ~~alcohol and tobacco commission~~ **excise enforcement section of the state police department.**
- (8) A gaming control officer employed by the gaming control division under IC 4-33-20.

The term refers to a police officer having jurisdiction in Indiana, unless the context clearly refers to a police officer from another state or a territory or federal district of the United States.

(b) "Police officer", for purposes of IC 9-18-2.5, means the following:

- (1) A regular member of the state police department **who is not an officer of the excise enforcement section of the state police**



department.

(2) A regular member of a city or town police department.

(3) A town marshal or town marshal deputy.

(4) A regular member of a county sheriff's department.

(5) A conservation officer of the department of natural resources.

(c) "Police officer", for purposes of IC 9-21, means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

SECTION 36. IC 10-11-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. As used in this chapter, "police employee" means an employee who is assigned police work as a peace officer under section 21 of this chapter. **The term does not include an officer of the excise enforcement section.**

SECTION 37. IC 10-11-2-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 21. **(a) This section does not apply to an officer of the excise enforcement section.**

~~(a)~~ **(b)** The officers and police employees of the department have all necessary police powers:

(1) to enforce the laws of the state for the regulation and use of vehicles;

(2) for the protection of the surface or other physical part of the highways in Indiana; and

(3) without writ or warrant, to make an arrest for violation of the laws of the state for the regulation and use of vehicles when the violation is committed in their presence.

~~(b)~~ **(c)** The police employees of the department shall:

(1) prevent and detect offenses;

(2) apprehend offenders;

(3) enforce the laws; and

(4) perform other duties imposed upon them by law.

~~(c)~~ **(d)** Police employees of the department have:

(1) in any part of Indiana, the same powers concerning criminal matters and the enforcement of related laws as sheriffs, constables, and police officers have in their respective jurisdictions; and

(2) power to act as agents for the state on return of parolees, fugitives from justice, and persons extradited to Indiana for offenses.

~~(d)~~ **(e)** A warrant of arrest or search warrant may be executed by any police employee of the department in any part of the state, according to the terms of the warrant without endorsement.

~~(e)~~ **(f)** Police employees are subject to the call of the governor. The



governor may assign to the department other police duties that the executive department considers advisable, including the duties performed by deputy fire marshals.

~~(f)~~ (g) Police employees have power to arrest, without warrant, a person who is committing or attempting to commit in their presence or view a violation of the laws of the state.

~~(g)~~ (h) Under order of the superintendent, police employees may cooperate with any other department of the state or with local authorities.

~~(h)~~ (i) Police employees may not:

(1) exercise their powers within the limits of a city in labor disputes; or

(2) suppress rioting and disorder;

except by direction of the governor or upon the request of the mayor of the city with the approval of the governor or, if the governor is not available, with the approval of the lieutenant governor. Outside the limits of a city, police employees may not exercise their power in labor disputes except by direction of the governor or upon the request of the judge of the circuit court of the county, with the approval of the governor or, if the governor is not available, with the approval of the lieutenant governor.

~~(i)~~ (j) The control or direction of the officers or members of the department may not be transferred or delegated to any other agency or officer of the state or any subdivision of the state.

SECTION 38. IC 10-11-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 3.5. Excise Enforcement

Sec. 1. As used in this chapter, "excise enforcement section" refers to the excise enforcement section of the state police department established by section 3 of this chapter.

Sec. 2. As used in this chapter, "excise officer" refers to an officer of the state police department excise enforcement section.

Sec. 3. The excise enforcement section of the state police department is established.

Sec. 4. The enforcement section shall enforce IC 7.1 and perform duties assigned to the enforcement section by either of the following:

(1) The superintendent.

(2) The governor.

Sec. 5. The superintendent shall appoint a commander of the excise enforcement section to organize and administer the excise



1 enforcement section. The commander serves at the pleasure of the
2 superintendent. The commander must:

- 3 (1) have attained the rank of major; and
- 4 (2) have at least ten (10) years experience as an active law
5 enforcement officer, at least five (5) years of which must have
6 been in a management capacity.

7 Sec. 6. All employees of the excise enforcement section,
8 including excise officers, shall be appointed by the superintendent,
9 with the approval of the board.

10 Sec. 7. (a) An excise officer shall execute a surety bond in the
11 amount of one thousand dollars (\$1,000), with surety approved by
12 the board.

13 (b) An excise officer shall execute and file with the state police
14 department an oath of office.

15 Sec. 8. The state police department shall issue to an excise
16 officer a certificate of employment under the seal of the state police
17 department. Indiana courts shall take judicial notice of a certificate
18 of employment.

19 Sec. 9. (a) An excise officer is vested with full police powers and
20 duties to enforce the following:

- 21 (1) IC 7.1.
- 22 (2) Any other Indiana law relating to alcohol or alcoholic
23 beverages.
- 24 (3) Laws relating to the sale of:
25 (A) tobacco, including tobacco vending machines; or
26 (B) electronic cigarettes.

27 (b) An excise officer must complete the same minimum number
28 of hours of training and inservice training as other state police
29 officers.

30 Sec. 10. An excise officer may investigate fraud within the
31 electronic benefits transfer program, as set forth in IC 12-13-14-14.

32 Sec. 11. (a) An excise officer may issue a summons for an
33 infraction or a misdemeanor violation if the defendant promises to
34 appear by signing the summons.

35 (b) A defendant who fails to appear is subject to the penalties
36 provided by IC 35-44.1-2-10. If the defendant fails to appear, the
37 court shall issue a warrant for the arrest of the defendant.

38 Sec. 12. An excise officer may act as an officer for the arrest of
39 violators of Indiana law if the excise officer reasonably believes
40 that a crime is or is about to be committed or attempted in the
41 excise officer's presence.

42 Sec. 13. (a) The injury to, the injury to the health of, or the



1 death of an excise officer is compensable under the appropriate
 2 provisions of IC 22-3-2 through IC 22-3-7 if the injury, injury to
 3 the health, or death arises out of and in the course of the
 4 performance of the excise officer's duties as an excise officer.

5 (b) For purposes of subsection (a) and IC 22-3-2 through
 6 IC 22-3-7, an excise officer is conclusively presumed to have
 7 accepted the compensation provisions provided in IC 22-3-2
 8 through IC 22-3-7.

9 **Sec. 14. An eligible excise officer who retires with at least twenty**
 10 **(20) years of service as an excise officer may:**

- 11 (1) retain the officer's service weapon;
- 12 (2) receive, in recognition of the officer's service, a badge
- 13 indicating that the officer is retired; and
- 14 (3) be issued by the state police department an identification
- 15 card that does the following:
- 16 (A) States the officer's name and rank.
- 17 (B) Signifies that the officer is retired.
- 18 (C) Notes the officer's authority to retain the service
- 19 weapon.

20 **Sec. 15. (a) The state police department shall categorize salaries**
 21 **of enforcement officers within each rank based upon the rank held**
 22 **and the number of years of service in the department through the**
 23 **twentieth year. The salary ranges that the board assigns to each**
 24 **rank shall be divided into a base salary and twenty (20) increments**
 25 **above the base salary with:**

- 26 (1) the base salary in the rank paid to a person with less than
- 27 one (1) year of service in the department; and
- 28 (2) the highest salary in the rank paid to a person with at least
- 29 twenty (20) years of service in the department.

30 (b) The salary matrix prescribed by this section shall be
 31 reviewed and approved by the budget agency before
 32 implementation.

33 (c) The salary matrix prescribed by this section must have
 34 parity with the salary matrix prescribed by the natural resources
 35 commission under IC 14-9-8 for conservation officers of the
 36 department of natural resources. The budget agency shall approve
 37 a salary matrix that meets the parity requirement of this
 38 subsection.

39 (d) For purposes of creating the salary matrix prescribed by this
 40 section, the state police department may not approve salary ranges
 41 for any rank that are less than the salary ranges effective for that
 42 rank on January 1, 2016.



1 **Sec. 16. The superintendent may discharge a nonprobationary**
 2 **excise officer for just cause. The board shall adopt rules to**
 3 **establish a procedure for the adjudication of the propriety of the**
 4 **discharge of a nonprobationary excise officer.**

5 **Sec. 17. (a) As used in this section, "excise enforcement activity"**
 6 **refers to all activities of the commission that relate to the**
 7 **commission's enforcement officers under IC 7.1 before July 1,**
 8 **2016.**

9 **(b) The employees of the enforcement section shall initially be**
 10 **composed of the employees of the commission who are employed**
 11 **on June 30, 2016, by the commission as part of its excise**
 12 **enforcement activity.**

13 **(c) An employee described in subsection (b):**

14 **(1) is entitled to have the employee's service under the**
 15 **commission before July 1, 2016, included for the purpose of**
 16 **computing all applicable employment rights and benefits with**
 17 **the enforcement section;**

18 **(2) retains any rights or benefits acquired in the employee's**
 19 **position with the commission; and**

20 **(3) remains a member of the retirement fund or pension plan**
 21 **the employee was a member of on June 30, 2016.**

22 **(d) Notwithstanding section 15 of this chapter and except as**
 23 **provided in subsections (e) and (f), the salary matrix in effect on**
 24 **June 30, 2016, for the commission's enforcement officers shall be**
 25 **transferred to the enforcement section.**

26 **(e) The salary of an enforcement officer with the commission**
 27 **who transfers to the enforcement section under subsection (b) shall**
 28 **not be reduced below the amount of the officer's salary as of June**
 29 **30, 2016.**

30 **(f) After June 30, 2016, the board shall establish a salary matrix**
 31 **for excise officers in accordance with section 15 of this chapter.**

32 **(g) The rank of an officer with the commission on June 30, 2016,**
 33 **who:**

34 **(1) holds the permanent rank of:**

35 **(A) major; or**

36 **(B) a rank lower than major; and**

37 **(2) transfers to the enforcement section under subsection (b);**
 38 **may not be reduced below the officer's rank as of June 30, 2016.**

39 **(h) All leases and obligations entered into by the commission**
 40 **and related to the commission's excise enforcement activities that**
 41 **are legal and valid before July 1, 2016, are legal and valid after**
 42 **June 30, 2016.**



(i) Nothing in this chapter affects a permit (as defined in IC 7.1-1-3-29) issued before July 1, 2016, or a hearing, a proceeding, or an appeal concerning the issuance or denial of a permit begun before July 1, 2016.

Sec. 18. (a) After June 30, 2016, a reference to the powers, duties, or functions of alcoholic beverage enforcement officers in a statute or rule shall be treated as a reference to:

(1) the excise enforcement section; or

(2) that section's excise enforcement officers.

(b) A rule of the alcohol and tobacco commission made under IC 7.1-2-3-6 and filed with the secretary of state before July 1, 2016, that relates to the powers, duties, or functions of an alcoholic beverage enforcement officer of the commission shall be:

(1) transferred on July 1, 2016, to the excise enforcement section; and

(2) treated after June 30, 2016, as though it has been adopted by the excise enforcement section.

(c) A pending rulemaking proceeding begun by the alcohol and tobacco commission before July 1, 2016, shall be treated after June 30, 2016, as a rulemaking proceeding of the excise enforcement section of the state police department.

(d) This section expires July 1, 2020.

Sec. 19. (a) As used in this section, "officer" means a person who is:

(1) an alcohol and tobacco enforcement officer with the alcohol and tobacco commission before July 1, 2016; and

(2) an excise enforcement officer with the excise enforcement section of the state police department after June 30, 2016;

under this act.

(b) After June 30, 2016, an officer retains any unused vacation days accrued before July 1, 2016, under the employee's service with the alcohol and tobacco commission.

(c) Except as provided in subsection (d), after June 30, 2016, an officer shall use accrued but unused vacation days in accordance with state police department policies.

(d) An officer may not be required to use the unused vacation days the officer accrued before July 1, 2016, at a time before the officer consents to use the vacation days.

(e) An officer disciplined before July 1, 2016, shall be disciplined under the policies and procedures of the alcohol and tobacco commission.

SECTION 39. IC 10-12-1-3 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 3. "Eligible employee"
 2 means a regular police employee of the department. **The term does not**
 3 **include an officer of the excise enforcement section.**

4 SECTION 40. IC 10-12-5-0.5 IS ADDED TO THE INDIANA
 5 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2016]: **Sec. 0.5. This chapter does not apply**
 7 **to an officer of the excise enforcement section.**

8 SECTION 41. IC 35-31.5-2-185, AS AMENDED BY P.L.238-2015,
 9 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2016]: Sec. 185. (a) "Law enforcement officer" means:

- 11 (1) a police officer (including a correctional police officer),
- 12 sheriff, constable, marshal, prosecuting attorney, special
- 13 prosecuting attorney, special deputy prosecuting attorney, the
- 14 securities commissioner, or the inspector general;
- 15 (2) a deputy of any of those persons;
- 16 (3) an investigator for a prosecuting attorney or for the inspector
- 17 general;
- 18 (4) a conservation officer;
- 19 (5) an enforcement officer of the alcohol and tobacco
- 20 commission;
- 21 (6) an enforcement officer of the securities division of the office
- 22 of the secretary of state; or
- 23 (7) a gaming agent employed under IC 4-33-4.5 or a gaming
- 24 control officer employed by the gaming control division under
- 25 IC 4-33-20.

26 (b) "Law enforcement officer", for purposes of IC 35-42-2-1,
 27 includes an ~~alcoholic beverage enforcement~~ **excise police officer of the**
 28 **excise enforcement section of the state police department**, as set
 29 forth in IC 35-42-2-1.

30 (c) "Law enforcement officer", for purposes of IC 35-45-15,
 31 includes a federal enforcement officer, as set forth in IC 35-45-15-3.

32 (d) "Law enforcement officer", for purposes of IC 35-44.1-3-1 and
 33 IC 35-44.1-3-2, includes a school resource officer (as defined in
 34 IC 20-26-18.2-1) and a school corporation police officer appointed
 35 under IC 20-26-16.

36 SECTION 42. IC 35-42-2-1, AS AMENDED BY P.L.147-2014,
 37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2016]: Sec. 1. (a) As used in this section, "public safety
 39 official" means:

- 40 (1) a law enforcement officer, including an ~~alcoholic beverage~~
 41 ~~enforcement officer~~; **excise police officer of the excise**
 42 **enforcement section of the state police department**;



- 1 (2) an employee of a penal facility or a juvenile detention facility
- 2 (as defined in IC 31-9-2-71);
- 3 (3) an employee of the department of correction;
- 4 (4) a probation officer;
- 5 (5) a parole officer;
- 6 (6) a community corrections worker;
- 7 (7) a home detention officer;
- 8 (8) a department of child services employee;
- 9 (9) a firefighter;
- 10 (10) an emergency medical services provider; or
- 11 (11) a judicial officer.
- 12 (b) Except as provided in subsections (c) through (j), a person who
- 13 knowingly or intentionally:
- 14 (1) touches another person in a rude, insolent, or angry manner;
- 15 or
- 16 (2) in a rude, insolent, or angry manner places any bodily fluid or
- 17 waste on another person;
- 18 commits battery, a Class B misdemeanor.
- 19 (c) The offense described in subsection (b)(1) or (b)(2) is a Class A
- 20 misdemeanor if it results in bodily injury to any other person.
- 21 (d) The offense described in subsection (b)(1) or (b)(2) is a Level 6
- 22 felony if one (1) or more of the following apply:
- 23 (1) The offense results in moderate bodily injury to any other
- 24 person.
- 25 (2) The offense is committed against a public safety official while
- 26 the official is engaged in the official's official duty.
- 27 (3) The offense is committed against a person less than fourteen
- 28 (14) years of age and is committed by a person at least eighteen
- 29 (18) years of age.
- 30 (4) The offense is committed against a person of any age who has
- 31 a mental or physical disability and is committed by a person
- 32 having the care of the person with the mental or physical
- 33 disability, whether the care is assumed voluntarily or because of
- 34 a legal obligation.
- 35 (5) The offense is committed against an endangered adult (as
- 36 defined in IC 12-10-3-2).
- 37 (6) The offense is committed against a family or household
- 38 member (as defined in IC 35-31.5-2-128) if the person who
- 39 committed the offense:
- 40 (A) is at least eighteen (18) years of age; and
- 41 (B) committed the offense in the physical presence of a child
- 42 less than sixteen (16) years of age, knowing that the child was



- 1 present and might be able to see or hear the offense.
- 2 (e) The offense described in subsection (b)(2) is a Level 6 felony if
- 3 the person knew or recklessly failed to know that the bodily fluid or
- 4 waste placed on another person was infected with hepatitis,
- 5 tuberculosis, or human immunodeficiency virus.
- 6 (f) The offense described in subsection (b)(1) or (b)(2) is a Level 5
- 7 felony if one (1) or more of the following apply:
- 8 (1) The offense results in serious bodily injury to another person.
- 9 (2) The offense is committed with a deadly weapon.
- 10 (3) The offense results in bodily injury to a pregnant woman if the
- 11 person knew of the pregnancy.
- 12 (4) The person has a previous conviction for battery against the
- 13 same victim.
- 14 (5) The offense results in bodily injury to one (1) or more of the
- 15 following:
- 16 (A) A public safety official while the official is engaged in the
- 17 official's official duties.
- 18 (B) A person less than fourteen (14) years of age if the offense
- 19 is committed by a person at least eighteen (18) years of age.
- 20 (C) A person who has a mental or physical disability if the
- 21 offense is committed by an individual having care of the
- 22 person with the disability, regardless of whether the care is
- 23 assumed voluntarily or because of a legal obligation.
- 24 (D) An endangered adult (as defined in IC 12-10-3-2).
- 25 (g) The offense described in subsection (b)(2) is a Level 5 felony if:
- 26 (1) the person knew or recklessly failed to know that the bodily
- 27 fluid or waste placed on another person was infected with
- 28 hepatitis, tuberculosis, or human immunodeficiency virus; and
- 29 (2) the person placed the bodily fluid or waste on a public safety
- 30 official.
- 31 (h) The offense described in subsection (b)(1) or (b)(2) is a Level 4
- 32 felony if it results in serious bodily injury to an endangered adult (as
- 33 defined in IC 12-10-3-2).
- 34 (i) The offense described in subsection (b)(1) or (b)(2) is a Level 3
- 35 felony if it results in serious bodily injury to a person less than fourteen
- 36 (14) years of age if the offense is committed by a person at least
- 37 eighteen (18) years of age.
- 38 (j) The offense described in subsection (b)(1) or (b)(2) is a Level 2
- 39 felony if it results in the death of one (1) or more of the following:
- 40 (1) A person less than fourteen (14) years of age if the offense is
- 41 committed by a person at least eighteen (18) years of age.
- 42 (2) An endangered adult (as defined in IC 12-10-3-2).



1 SECTION 43. [EFFECTIVE JULY 1, 2016] (a) As used in this
2 SECTION, "commission" refers to the alcohol and tobacco
3 commission created by IC 7.1-2-1-1.

4 (b) As used in this SECTION, "enforcement officer activity"
5 refers to all activities of the commission that relate to the
6 commission's enforcement officers under IC 7.1.

7 (c) As used in this SECTION, "enforcement section" refers to
8 the excise enforcement section of the state police department
9 established under IC 10-11-3.5, as added by this act.

10 (d) The enforcement officer activity of the commission is
11 abolished and all powers, duties, and functions adhering to the
12 enforcement officer activity of the commission or the chairman of
13 the commission are transferred to the enforcement section.

14 (e) The property and records relating to the enforcement officer
15 activity of the commission are transferred to the enforcement
16 section.

17 (f) This SECTION expires July 1, 2017.

18 SECTION 44. [EFFECTIVE JULY 1, 2016] (a) As used in this
19 SECTION, "enforcement officer activity" refers to all activities of
20 the alcohol and tobacco commission that relate to the commission's
21 enforcement officers under IC 7.1.

22 (b) On July 1, 2016, appropriations made to the alcohol and
23 tobacco commission created by IC 7.1-2-1-1 for enforcement
24 officer activity are transferred to the excise enforcement section of
25 the state police department established under IC 10-11-3.5, as
26 added by this act.

27 (c) This SECTION expires July 1, 2017.

